



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

AUSTIN KENNY, §  
Plaintiff, §  
§  
vs. § Civil Action No. 3:21-cv-01321-MGL  
§  
JANET YELLEN, *Secretary, U.S. Department* §  
*of the Treasury,* §  
Defendant, §

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION,  
AND DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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Plaintiff Austin Kenny (Kenny) filed a complaint against Defendant Janet Yellen (Yellen), alleging violations of the Rehabilitation Act of 1973, 29 U.S.C. § 794. Yellen filed a motion for summary judgment.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court deny Yellen's motion for summary judgment. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or

recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

The Magistrate Judge filed the Report on December 8, 2022. On January 17, 2023, after the Court granted additional time to object, Yellen filed a response stating she had no objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Yellen’s motion for summary judgment is **DENIED**.

**IT IS SO ORDERED.**

Signed this 25th day of January 2023, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE